

Chapter No. 446

10/SS26/R475SG

JN 12H/TB

SENATE BILL NO. 2642

Originated in Senate  Secretary

SENATE BILL NO. 2642

AN ACT TO AMEND SECTION 23-15-673, MISSISSIPPI CODE OF 1972, TO MAKE IT CLEAR THAT THE SPOUSE AND DEPENDANTS OF AN ABSENT VOTER AS DEFINED IN THE ARMED FORCES ABSENTEE VOTER LAW MAY REGISTER TO VOTE AS PROVIDED UNDER SUCH LAW; TO AMEND SECTION 23-15-677, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ABSENT VOTERS WHO REGISTER TO VOTE UTILIZING A FEDERAL POSTCARD APPLICATION OR A FEDERAL WRITE-IN-ABSENTEE BALLOT MAY VOTE IN AN ELECTION IF THEY WERE REGISTERED TO VOTE 10 OR MORE DAYS PRIOR TO THE DATE OF THE ELECTION; TO AMEND SECTION 23-15-687, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN APPLICATION FOR AN ABSENTEE BALLOT UNDER THE ARMED FORCES ABSENTEE VOTING LAW SHALL SERVE AS A REQUEST BY THE APPLICANT THROUGH THE DATE OF THE NEXT FEDERAL ELECTION RATHER THAN THE NEXT TWO FEDERAL ELECTIONS; TO AMEND SECTION 23-15-692, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UPON RECEIPT OF A FEDERAL WRITE-IN-ABSENTEE BALLOT EXECUTED BY A PERSON WHO IS A REGISTERED VOTER OR WHOSE INFORMATION ON THE FORM IS SUFFICIENT TO REGISTER OR UPDATE THE REGISTRATION OF THAT PERSON, THE FEDERAL WRITE-IN-ABSENTEE BALLOT SHALL BE CONSIDERED AS AN ABSENTEE BALLOT REQUEST; TO AMEND SECTION 23-15-693, MISSISSIPPI CODE OF 1972, TO REQUIRE ABSENT VOTERS VOTING PURSUANT TO THE ARMED FORCES ABSENTEE VOTING LAW TO COMPLETE THE DECLARATION SPECIFIED BY THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT; TO AMEND SECTION 23-15-699, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ABSENT VOTERS WHO HAVE REQUESTED TO RECEIVE ABSENTEE BALLOTS AND BALLOTING MATERIALS PURSUANT TO THE ARMED FORCES ABSENTEE VOTING LAW MAY CHOOSE TO RECEIVE SUCH BALLOTS AND BALLOTING MATERIALS BY MAIL, FACSIMILE DEVICE (FAX) OR ELECTRONIC MAIL DELIVERY (E-MAIL) AND TO PROVIDE THAT IF THE ABSENT VOTER DOES NOT INDICATE A PREFERENCE, DELIVERY SHALL BE BY MAIL; TO AUTHORIZE REGISTRARS TO RECEIVE VOTED ABSENTEE BALLOTS AND COMPLETED FEDERAL POSTCARD APPLICATIONS BY ELECTRONIC MAIL DELIVERY AND TO PROVIDE PROCEDURES FOR THE HANDLING OF SUCH BALLOTS; TO AMEND SECTION 23-15-701, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ABSENT VOTERS UTILIZING THE ARMED FORCES ABSENTEE VOTING LAW TO RECEIVE VOTER REGISTRATION INFORMATION, ABSENTEE BALLOT APPLICATIONS, ABSENTEE BALLOTS AND OTHER VOTING INFORMATION BY CONTACTING THE SECRETARY OF STATE IN THE MANNER ESTABLISHED BY THE SECRETARY OF STATE; TO AUTHORIZE THE SECRETARY OF STATE TO ADOPT RULES TO IMPLEMENT THE ARMED FORCES ABSENTEE VOTING LAW AND TO BRING THE STATE INTO COMPLIANCE WITH THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT; TO AMEND SECTIONS 23-15-125, 23-15-635, 23-15-681 AND 23-15-691, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 23-15-695, MISSISSIPPI CODE OF 1972, WHICH SPECIFIES THOSE PERSONS AUTHORIZED TO ADMINISTER AND ATTEST OATHS FOR ABSENTEE BALLOTS UNDER THE ARMED SERVICES ABSENTEE VOTING LAW; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 23-15-673, Mississippi Code of 1972, is amended as follows:

23-15-673. (1) For the purposes of this subarticle, the term "absent voter" shall mean and include the following:

(a) Any enlisted or commissioned members, male or female, of the United States Army, or any of its respective components or various divisions thereof; any enlisted or commissioned members, male or female, of the United States Navy, or any of its respective components or various divisions thereof; any enlisted or commissioned members, male or female, of the United States Air Force, or any of its respective components or various divisions thereof; any enlisted or commissioned members, male or female, of the United States Marines, or any of its respective components or various divisions thereof; or any persons in any division of the armed services of the United States, who are citizens of Mississippi;

(b) Any member of the Merchant Marine and the American Red Cross who is a citizen of Mississippi;

(c) Any disabled war veteran who is a patient in any hospital and who is a citizen of Mississippi;

(d) Any civilian attached to and serving outside of the United States with any branch of the Armed Forces or with the Merchant Marine or American Red Cross, and who is a citizen of Mississippi;

(e) Any citizen of Mississippi temporarily residing outside the territorial limits of the United States and the District of Columbia;

(f) Any citizen of Mississippi enrolled as a student at a United States Military Academy.

(2) The spouse and dependents of any absent voter as set out in paragraphs (a), (b), (c), (d), (e) and (f) of subsection (1) of this section shall also be included in the meaning of absent voter

and may register to vote and vote an absentee ballot as provided in this subarticle if also absent from the county of their residence on the date of the election and otherwise qualified to vote in Mississippi.

(3) For the purpose of this subarticle, the term "election" shall mean and include the following sets of elections: special and runoff special elections, preferential and general elections, first and second primary elections or general elections without preferential elections, whichever system is applicable.

SECTION 2. Section 23-15-677, Mississippi Code of 1972, is amended as follows:

23-15-677. (1) All absent voters as defined in Section 23-15-673(1) and (2) may use a duly executed federal postcard application (as provided for in the Uniformed and Overseas Citizens Absentee Voting Act, 42 USCS 1973ff et seq.) to request a ballot or to register to vote, or to do both simultaneously.

(2) An absent voter who registers to vote utilizing a federal postcard application or a Federal Write-In-Absentee Ballot may vote in an election if the voter was registered to vote ten (10) or more days prior to the date of the election.

SECTION 3. Section 23-15-687, Mississippi Code of 1972, is amended as follows:

23-15-687. (1) The registrar shall keep all applications for absentee ballots and shall, within twenty-four (24) hours, if possible, send to the absent voter on whose behalf the application is made, the proper affidavit and the proper ballot or ballots applicable to the elections.

(2) One (1) application for an absentee ballot shall serve as a request by the applicant for an absentee ballot for:

(a) The next * * * federal general election, including all primary elections associated with the election;

(b) All state and county primary and general elections that occur after the receipt of the application by the registrar

through the date of the next federal general election that occurs after the receipt of the application by the registrar.

(3) The registrar shall preserve all applications for absentee ballots for one (1) year as a record to be furnished to any court or other duly constituted authority for inspection or evidence if properly requested.

(4) If the registrar rejects an application for an absentee ballot or denies a request to register to vote from a uniformed services applicant or an overseas voter, the registrar shall provide the person with the reasons for the rejection.

(5) Any runoff election for a federal election shall be considered a continuation of such federal election.

SECTION 4. Section 23-15-692, Mississippi Code of 1972, is amended as follows:

23-15-692. (1) An absent voter who resides outside the United States, who is a member of the United States Armed Forces or who is a family member of a member of the Armed Forces, and who is a registered voter of the State of Mississippi, may use the Federal Write-In-Absentee Ballot as provided for by 42 USCS 1973ff-2 in general, special, primary and runoff elections for local, state and federal offices.

(2) Upon receipt of a Federal Write-In-Absentee Ballot executed by a person who is a registered voter or whose information on the form is sufficient to register or update the registration of that person, the Federal Write-In-Absentee Ballot shall be considered as an absentee ballot request. Nothing in this subsection shall suspend the voter registration deadlines otherwise provided by law.

SECTION 5. Section 23-15-693, Mississippi Code of 1972, is amended as follows:

23-15-693. The absent voter, upon receipt of the absentee ballot, shall complete the declaration specified in the Uniformed

and Overseas Citizens Absentee Voting Act, 42 USC Section 1973ff
et seq. * * *

* * *

SECTION 6. Section 23-15-699, Mississippi Code of 1972, is amended as follows:

23-15-699. (1) Absent voters who have requested to receive absentee ballots and balloting materials may choose to receive such ballots and balloting materials by mail, facsimile device (FAX) or electronic mail delivery (e-mail). The Secretary of State shall establish procedures that allow an absent voter to make the choice authorized by this subsection.

(2) Consistent with the choice that the absent voter exercises pursuant to subsection (1) of this section, the registrar shall, in addition to mail, be authorized to use electronic facsimile (FAX) devices and electronic mail delivery (e-mail) to transmit balloting materials and absentee ballots. If the absent voter does not indicate a preference, delivery of such information shall be by mail.

(3) The registrar is authorized to receive by electronic facsimile (FAX) devices and electronic mail delivery (e-mail):

(a) Voted absentee ballots; * * *

(b) Completed federal postcard applications as described in Section 23-15-677, which shall serve to request absentee ballots or to register to vote or to do both simultaneously; and

(c) Completed Federal Write-In-Absentee Ballots as described in Section 23-15-692.

(4) Once the registrar has received a voted absentee ballot pursuant to this section, he shall place the ballot in an absentee ballot envelope designated for absentee ballots under this subarticle and fill out the required information on the envelope. The registrar shall then notate on the envelope that the ballot was received under this section and a signature across the flap of

the envelope shall not be required. Except as provided in this section, absentee ballots received under this subsection shall be treated in the same manner as other absentee ballots received under this subarticle.

(5) Access to voted absentee ballots before they are placed in an absentee ballot envelope shall be strictly limited to election officials who must process the ballot and any election official who views the ballots before they are placed in the envelope shall have the duty to protect the secrecy of the ballot choices; however, the failure of an election official to comply with this subsection shall not invalidate the ballot.

(6) Each circuit clerk shall furnish a suitable electronic mail delivery (e-mail) address that can be used to allow absent voters to comply with the provisions of this subarticle.

SECTION 7. Section 23-15-701, Mississippi Code of 1972, is amended as follows:

23-15-701. (1) The Secretary of State shall adopt such rules which are necessary and essential to implement this subarticle and to bring the state into compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 USCS Section 1973ff et seq. The Secretary of State shall furnish the Legislature with a copy of such rules sixty (60) days after adoption by the Secretary of State.

(2) The Secretary of State may exercise emergency powers concerning absentee voting and registration of military personnel over any election during an armed conflict or other military contingencies involving United States Armed Forces or mobilization of those forces, including state national guard or reserve components. The Secretary of State shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.

SECTION 8. Section 23-15-125, Mississippi Code of 1972, is amended as follows:

23-15-125. The pollbook of each voting precinct shall designate the voting precinct for which it is to be used, and shall be ruled in appropriate columns, with printed or written headings, as follows: date of registration; voter registration number; name of electors; date of birth; and a number of blank columns for the dates of elections. Except as otherwise provided in Section 23-15-692, all who register within thirty (30) days before any regular election shall be entered on the pollbooks immediately after such election, and not before, so that the pollbooks will show only the names of those qualified to vote at such election. When election commissioners determine that any elector is disqualified from voting, by reason of removal from the supervisors district, or other cause, that fact shall be noted on the registration book and his name shall be erased from the pollbook. Nothing in this section shall preclude the use of electronic pollbooks.

SECTION 9. Section 23-15-635, Mississippi Code of 1972, is amended as follows:

23-15-635. (1) The form of the elector's certificate, attesting witness certification and certificate of person providing voter assistance on the back of the envelope used by voters who do not use the registrar of their county of residence as an attesting witness and who are not absent voters as defined in Section 23-15-673, shall be as follows:

"ELECTOR'S CERTIFICATE

STATE OF _____

COUNTY OR PARISH OF _____

I, _____, under penalty of perjury do solemnly swear that this envelope contains the ballot marked by me indicating my choice of the candidates or propositions to be submitted at the election to be held on the ____ day of _____, 2____, and I hereby authorize the registrar to place this envelope in the ballot box on my behalf, and I further authorize the election

managers to open this envelope and place my ballot among the other ballots cast before such ballots are counted, and record my name on the poll list as if I were present in person and voted.

I further swear that I marked the enclosed ballot in secret.

Penalties for vote fraud are up to five (5) years in prison and a fine of up to Five Thousand Dollars (\$5,000.00). (Miss. Code. Ann. Section 23-15-753.)

Penalties for voter intimidation are up to one (1) year in jail and a fine of up to One Thousand Dollars (\$1,000.00). (Miss. Code. Ann. Section 97-13-37.)

(Signature of voter)

CERTIFICATE OF ATTESTING WITNESS

Under penalty of perjury I affirm that the above named voter personally appeared before me, on this the ____ day of _____, 2____, and is known by me to be the person named, and who, after being duly sworn or having affirmed, subscribed the foregoing oath or affirmation. That the voter exhibited to me his blank ballot; that the ballot was not marked or voted before the voter exhibited the ballot to me; that the voter was not solicited or advised by me to vote for any candidate, question or issue, and that the voter, after marking his ballot, placed it in the envelope, closed and sealed the envelope in my presence, and signed and swore or affirmed the above certificate.

(Attesting witness)

(Address)

(Official title)

(City and State)

CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

(To be completed only if the voter has received assistance in marking the enclosed ballot.) I, under penalty of perjury, hereby certify that the above-named voter declared to me that he or she is blind, temporarily or permanently physically disabled, or

cannot read or write, and that the voter requested that I assist the voter in marking the enclosed absentee ballot. I hereby certify that the ballot preferences on the enclosed ballot are those communicated by the voter to me, and that I have marked the enclosed ballot in accordance with the voter's instructions.

Penalties for vote fraud are up to five (5) years in prison and a fine of up to Five Thousand Dollars (\$5,000.00). (Miss. Code. Ann. Section 23-15-753.)

Penalties for voter intimidation are up to one (1) year in jail and a fine of up to One Thousand Dollars (\$1,000.00). (Miss. Code. Ann. Section 97-13-37.)

Signature of person providing assistance

Printed name of person providing assistance

Address of person providing assistance

Date and time assistance provided

Family relationship to voter (if any)"

(2) The envelope used pursuant to this section shall not contain the form prescribed pursuant to Section 23-15-719 and shall have printed on the flap on the back of the envelope in bold print and in a distinguishing color, the following: **"YOUR VOTE WILL BE REJECTED AND NOT COUNTED IF THIS ENVELOPE IS NOT SIGNED ACROSS THE FLAP OF THIS ENVELOPE BY YOU AND AN ATTESTING WITNESS."**

SECTION 10. Section 23-15-681, Mississippi Code of 1972, is amended as follows:

23-15-681. Except as otherwise provided in this subarticle, all official absentee ballots shall be sent out and returned in envelopes on which there is printed across the face two (2) parallel horizontal bars, each one-fourth (1/4) of an inch wide,

extending from one side of the envelope to the other side, with an intervening space of one-fourth (1/4) of an inch, the top bar to be one and one-fourth (1-1/4) inches from the top of the envelope, and with the words "OFFICIAL ELECTION BALLOTING MATERIAL-VIA AIR MAIL" between the bars. In the upper right corner of each such envelope there shall be printed in a box the words "FREE OF U.S. POSTAGE, INCLUDING AIR MAIL." All printing on the face of such envelopes shall be in black, and there shall be printed in black in the upper left corner of all such ballot envelopes an appropriate inscription for the return address of the sender.

SECTION 11. Section 23-15-691, Mississippi Code of 1972, is amended as follows:

23-15-691. As soon as possible after the printing of the official absentee ballot for any election, the registrar of the county shall send to any absent voter as defined in this subarticle, who shall, upon proper application, have requested same, the official absentee voter ballot or ballots provided for in this subarticle and the instructions for voting and returning the ballot. * * * If the ballot is sent by mail the registrar shall send a self-addressed envelope or envelopes with the ballot and the instructions.

If the ballot is sent by mail, the gummed flap of the envelope provided for the return of the ballot must be separated by wax paper or other appropriate protective insert from the remaining balloting material. The voting instructions shall require a notation of the facts on the back of the envelope duly signed by the voter * * *.

If applicable, the instructions shall indicate that the ballot shall be marked in ink or indelible pencil.

SECTION 12. Section 23-15-695, Mississippi Code of 1972, which specifies those persons authorized to administer and attest oaths for absentee ballots under the Armed Services Absentee Voting Law, is repealed.

SECTION 13. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 14. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

PASSED BY THE SENATE
February 16, 2010



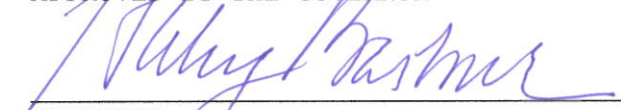
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 5, 2010



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/29/10 3:15pm